

An Analysis of Land Use Legislation in Selected States

JOHN B. MITCHELL

**OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER
U. S. 250 and Ohio 83 South
Wooster, Ohio**

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AN ANALYSIS OF LAND USE LEGISLATION IN SELECTED STATES¹

JOHN B. MITCHELL²

Introduction

A growing concern about how land is used is reflected in a variety of developments on the national scene and in Ohio. Several bills concerning federal land use legislation have been introduced in Congress.

A flurry of activities in several statehouses addressing land use and environmental matters is another reflection of interest in how land is used. A spate of national, regional, and state conferences on land use and land use policies also reflect the growing concern about this subject.

State conferences focusing on land use policy have been conducted by diverse groups in Ohio for several years. For example, the League of Women Voters, Ohio Department of Natural Resources, Battelle Memorial Institute, Ohio Planning Conference, and the Columbus Area Chamber of Commerce have all held land use conferences or symposia during the past few years.

Finally, House Bill 63, passed by the Ohio General Assembly in 1975, created a joint legislative committee to review land use policies, programs, and regulations in Ohio. This committee's final report was published in mid-1977.

The major purpose of this bulletin is to examine the land use legislation and policies of selected states and the organizational structures evolved to carry out these policies, plus observations concerning implications of these policies. The findings will provide information for persons interested in land use and land use policies. It is intended for decision-makers such as legislators, agency heads, and persons in various positions responsible for programs influencing the use

of land. It is also intended for professionals such as agricultural economists, sociologists, political scientists, geographers, agronomists, and planners.

METHOD

While on assigned research duty in 1975-76, the author visited Florida, Hawaii, New Jersey, New York, Oregon, and Vermont. All of these states have passed laws to deal with pressures on their land resources, although New Jersey's deals only with an experimental program in one county.

Information was secured via interviews with members of the agency, commission, or board responsible for land use policies and their enforcement. Local residents and officials in towns and counties where the policies were in effect were also interviewed.

The following questions provided a framework for data gathering efforts on each state's situation:

1. What was the prior situation?
2. How is the state's land use body organized and what are its relations with other agencies of government?
3. How was policy formulated?
4. What kind of regulations were established?
5. How were provisions of the land use policy administered, *e.g.*, at the state, area, or local level, or some combination of these?
6. Finally, a tentative evaluation of the policies is made.

Information obtained through interviews is supplemented by a review of reports from each state, plus other publications addressing the land use question.

Major Purposes of Each State's Legislation

The legislation of each state is examined in this section, and various aspects of its provisions are included in tabular form where practical. Those interested in additional information will find references to original sources in this section and in the list of references on page 23.

With the exception of Hawaii, all of this legislative action is of recent origin. Legislation in five of the states was initiated in the 1970's (Table 1).

PROVISIONS OF FLORIDA'S ACT

The basic purpose of Florida's Environmental Land and Water Act, also referred to as Chapter 380,

is to establish policies to guide and coordinate decisions relating to development.³ The act establishes procedures for the identification and regulation of areas and activities which are of state or regional concern. The policies are to be implemented by local governments.

¹Additional information on land use legislation in five of these states can be found in another publication by John B. Mitchell (27). The research reported in these bulletins was supported in part by the North Central Regional Center for Rural Development, Iowa State University, Ames.

²Professor and Extension Rural Sociologist, Dept. of Agricultural Economics and Rural Sociology, The Ohio State University and Ohio Agricultural Research and Development Center.

³For an elaboration of the provisions of this legislation, see the section on Florida by Earl M. Starnes in (56); also (44).

TABLE 1.—Provisions of Land Use Legislation in Six States.

	Florida	Hawaii	New Jersey		New York	Oregon	Vermont
			PDE	TDR			
Year Law Enacted	1972	1961	1976*	Pending	1971	1973	1970
A State Board or Commission	Yes	Yes			Yes†	Yes	Yes
A District or Regional Commission	Yes					Yes	Yes
State Planning Staff	Yes	Yes				Yes	‡
District or Regional Staff	Yes					Yes**	Yes
Planning Staff Assistance for Local Government (County, Municipal, and Township)	Yes					††	Yes‡‡
4 Major Focus of Legislation	All land plus ACSC	All land	Prime farmland	Agricultural and residential land	Viable agricultural land	All land	All land
Methods of Implementing Policies	DRI statement and application for permit***	Zoning	Purchase of development easements by state	Zoning and transfer of DRI's	Commit land to agricultural use for 8 years	State goals must be incorporated in local plans	Permit farm land use change

*Experimental program in one county.

†This commission is made up of two full-time state employees.

‡The Environmental Board may call on the State Office of Planning for assistance.

**Regional Council of Governments (COGS) does the planning for several multi-county units.

††Land Conservation and Development Commission provides funds for local planning.

‡‡Regional planning commission (county) provides planning assistance for townships and municipalities.

***The Governor and Cabinet designate Areas of Critical State Concern.

The act has two categories of land use regulations; one pertains to Areas of Critical State Concern (ACSC) and the other concerns Developments of Regional Impact (DRI). These regulations concern land use proposals extending beyond the boundaries of the local unit of government.

This law gives the Administration Commission—the Governor and his Cabinet—the authority to modify the use of large acreages in critically important land areas. They can establish rules and regulations regarding changes in the area once the boundaries of an area of critical state concern have been determined. After an ACSC has been designated, local governments are to establish development regulations. If they do not complete this work within 6 months, the state then has the responsibility of preparing regulations.

The second provision of this act concerns developments of regional impact, *i.e.*, those of such size that they have an effect upon more than one county and/or unit of government. A developer must make application for a DRI permit. His proposal is reviewed by the local units of governments, a regional council, and the state department of planning.

PROVISIONS OF HAWAII'S LAND USE LAW

Hawaii's Land Use Law, passed in 1961, is recognized as a pioneering piece of legislation in land use control. Its major objectives were designed to preserve and protect the state's land resources. The law also created a Land Use Commission (24, pp. 188-195; 45, 46). Its first job was to classify all land, public and private, throughout the state.

All land in Hawaii is zoned into one of four use categories: urban, rural, agricultural, and conservation. The rural category is not very important, for only 0.2% of Hawaii's land is in this use category.

Every 5 years the Land Use Committee reviews the existing use categories of all land. After a series of hearings, the zoning classification of some land may be changed. In the years between the reviews, the Land Use Commission receives requests for changes in district boundaries and/or rezoning of land. A county planning commission always submits a report and its recommendations on any request for land use change.

Administration of zoning regulations in agricultural, urban, and rural districts is administered at the



FIG. 1.—Land use policies and comprehensive planning lead to best use of land resources—one of the goals of land use legislation.

Photo courtesy of USDA—Soil Conservation Service

county level. Land in conservation districts is regulated by Hawaii's Board of Land and Natural Resources.

NEW JERSEY

Purchase of Development Easements

In New Jersey, two legislative proposals on land use policies are being considered. One proposal, state purchase of development easements, was advanced by the Blueprint Commission.⁴ This commission was appointed by the Governor in 1971. Implementation of its recommendations would result in formation of a permanent agricultural preserve for agricultural uses. Briefly, the major objective of preserving agricultural land would be implemented by the purchase of development easements on 1 million acres of farm land. The program would be financed by a tax on all real estate transfers.

On the recommendation of another commission, the New Jersey legislature approved an act funding an experimental program in four townships as a pilot

⁴For details on provisions of this policy, see (47); also (32).

project. Presumably in a few years the matter will be raised again. The primary purpose of this legislation would be to preserve agricultural land.

Transfer of Development Rights

Proposals contained in this policy are in Bill A-3188, which is being considered by the New Jersey Assembly. A slightly different version of this policy was contained in Bill 3192, which was introduced in 1975.

This legislation would provide the legal authority for municipalities to adopt a transfer of development rights policy. Its major objective is to help maintain agriculture and preserve open space in New Jersey. (6; 3, pp. 330-358). The policy is based on the assumption that ownership of land is really ownership of a bundle of rights and one of these rights, the development right, can be separated from the land.

In essence, each municipality, through a master plan and zoning, would create a market—a supply and demand—for development rights certificates. Owners of agricultural land would sell these certificates to developers and a greater density of residential

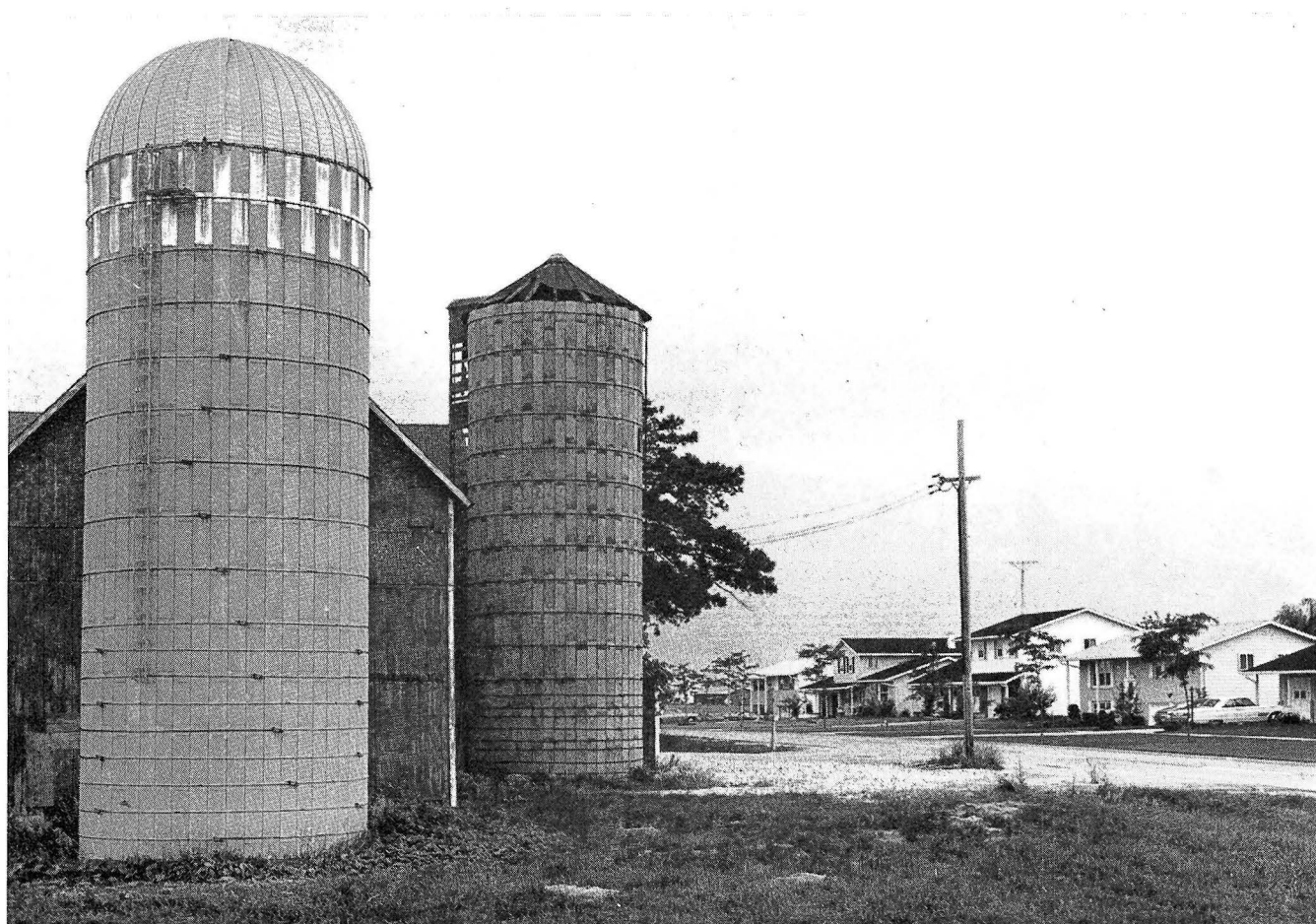


FIG. 2.—The purchase of development rights on rural land would enable some farms to continue in urban fringe areas.

Photo courtesy of USDA—Soil Conservation Service

development would be permitted in areas zoned for this type of land use. Hopefully a critical mass of land for farm purposes would be maintained by such a policy. Under provisions of this policy there would be little if any expense to the state.

NEW YORK'S AGRICULTURAL DISTRICTS

Organization of agricultural districts was made possible by action of New York's legislature when they passed the Agricultural District Act in 1971. Passage of this legislation was the culmination of a process which began several years earlier.

The intent of the legislature was to maintain viable agriculture in the face of growing urban pressures (8, pp. 607-613; 49). Its policy is set forth in this declaration:

"It is the declared policy of the state to conserve and protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air shed, as well as aesthetic purposes."

This legislation enables landowners to organize the district on a voluntary basis. Provisions of the agricultural district law provide some assurance that farmers who invest in long term improvements are not likely to lose these investments. The provisions also reduce the likelihood that farms will be sold for non-farm uses, for each person must sign a pledge to maintain the land in agricultural uses for 8 years. Several other provisions enhance the position of those wishing to continue their agricultural enterprise. Creation of these districts also helps maintain open space.

Costs to local and state government are minimal, as no personnel are employed at the county level to oversee provisions of this policy.

OREGON'S LAND USE ACT

Oregon's Senate Bill 100, commonly referred to as the 1973 Land Use Act, provides that comprehensive land use planning takes place at the local level (26, 50, 51). It mandates active citizen involvement in decision making at all levels of government. It established a commission to formulate goals and guidelines to give direction to planning efforts. Another provision is that planning will be done on a partnership basis between local and state governments.

The act created the Land Conservation and Development Commission (LCDC) and directed it to formulate statewide planning goals and guidelines. These goals were formulated via a series of meetings conducted around the state in 1974. The goals and

attitudes of Oregon's citizens concerning land use and planning were determined by this process.

After these statewide goals and guidelines were adopted, they were used by cities, counties, and state agencies in preparing comprehensive plans. The LCDC coordinates the planning process by reviewing comprehensive plans to see if they are in conformity with the statewide goals. The Commission is responsible for making land use policy decisions.

Enactment and implementation of provisions of this legislation are the latest in the series of actions to promote comprehensive land use planning in Oregon.

The major thrust of this legislation is to bring about the development of comprehensive plans by every municipality and county, and to ensure that statewide goals and guidelines will be incorporated in these plans.

VERMONT'S LAND USE LAW

Vermont's Environmental Control Law, Act 250, frequently referred to as the Land Use Planning Act, was adopted in 1970 (52, 53).⁵ It is an attempt to make the best use of Vermont's natural resources and protect the health and safety of its citizens.

Vermont's Act 250 contains two sections. The first section provides for a permit procedure and an organizational structure to administer the program. The permit system prevents small municipalities from being overwhelmed by large developments. Protection of agricultural land is not a major objective of this act.

A project involving ten or more residential units or a subdivision of land with ten or more parcels, each of which is less than 10 acres, requires a permit. Most developments of this size would have an impact on an area larger than the township or village where they occurred. This act also provides planning assistance for townships and the smaller municipalities.

A nine-member Environmental Board has the overall responsibility for administering provisions of Act 250. It has five major functions. The first is administrative, the second regulation, and the third planning. The fourth function is quasi-judicial. The board is empowered to hear appeals from decisions on land use permit applications denied by a district commission. Finally, the board is empowered to initiate legal action to prevent or redress violations of the act or board regulations.

The second section of Act 250 calls for the preparation of three state plans over a period of years. The first, an inventory of present land use, was completed in 1972. The second plan contained broad policies for growth and development and was ap-

⁵For an excellent account of the development and passage of this legislation, see (29).

proved in 1973. The third was the state land use plan, which is still being developed.

GENERAL COMMENTS

The major thrust of the New York and New Jersey legislation is definitely aimed at the preservation of agricultural land. However, of the six states studied, only New Jersey's policies propose the purchase of development rights as a means of preserving agricultural land.

Hawaii's land use law, although aimed at preserving and protecting all land resources, has the greatest impact upon urban and agricultural uses of land. These are the two major uses competing for Hawaii's best land. Zoning prevents scatteration of urban development throughout agricultural areas.

The Florida and Vermont policies have much in common. Each law contains provisions dictating that large-scale developments will be permitted only after presentation of data concerning the impact of the project on social institutions and natural resources. Provisions of both of these policies provide a degree of protection for local social systems such as schools and municipal services which may be overwhelmed or over-taxed by sudden large-scale development. Of almost equal importance are the protections and safeguards provided for ecological systems. Environmental concerns and protection of water and

other natural resources are important parts of these policies.

The importance of protecting water systems and other natural resources is very explicit in provisions for designation of areas of critical state concern in Florida. This is an example of a state exercising its powers in land use control over an extended area. Florida's fragile ecological system and an ever-increasing population may have contributed greatly to this type of legislation.

Oregon's Land Use Act differs from the others in that it attempts to have local planning efforts conform to statewide goals and objectives. Planning is done at the local and county level; however, the final plan must incorporate these statewide goals if it is to be approved by the Land Conservation and Development Commission.

In Florida, Oregon, and Vermont, provisions of the legislation provide planning assistance for local units of government. This provision has had the effect of providing more expertise for comprehensive planning at the local level. Also, in Florida and Vermont, only the larger developments are regulated by the land use policies. The vast majority of land use decisions are still made at the local level.

In Hawaii, the division of responsibility between state and county is confusing to many people. Also, 48 percent of the land is in the conservation use cate-



FIG. 3.—When 50 people replace 50 cows, demands on social institutions increase rapidly.

Photo courtesy of USDA—Soil Conservation Service

gory and is administered by Hawaii's Board of Land and Natural Resources. The Land Use Commission and the county planning commissions make major decisions on just over half of the land. Decision making is also complicated by the fact that there is not a comprehensive state land use plan. Fortunately, Hawaii's Department of Planning and Economic Development has been directed to prepare a comprehensive state plan.

Organizational Structure for Administering the Policies

When examining the various structures for carrying out the intent of the legislation, it is important to emphasize at the outset the wide variation in existing governmental structures. In New Jersey, townships have the same powers as the usual municipality. Townships are also important units of local government in New York and Vermont. In the three other states, townships are of little or no consequence as a unit of government. Hawaii has the least differentiated governmental structure of the six states. It has only two levels of government—state and county.

FLORIDA

Designation of areas of critical state concern are made by Florida's Administration Commission—the Governor and his Cabinet. The Division of State Planning provides the Commission with data and other information needed in making such a designation. This body may establish rules and regulations for the area but this responsibility is left up to local governments, *i.e.*, establishment of land development regulations. However, if local governments do not formulate regulations within 6 months, the Governor and his Cabinet have the responsibility of doing so.

The second part of this legislation involves a statement of Development of Regional Impact (DRI) which must be submitted by the developer. DRI applications are filed with the local government (city or county), the regional planning council and the Division of State Planning. The DRI application may be rejected by any one of these three levels of government, although most decisions on these are made by the city or county.

HAWAII

As mentioned earlier, all lands in Hawaii are divided into four use categories and only two units of government—state and county—are involved in land use changes. Hawaii's Land Use Commission conducts a review every 5 years and may change district boundaries when petitioned by state or county agencies or property owners. It may also approve or deny, or approve with modifications, land use changes within urban, agricultural, and rural districts granted

The pending legislation in New Jersey regarding transfer of development rights does not take into account commercial and industrial land uses. New Jersey's other proposal on purchase of development easements (rights) and the agricultural districts legislation in New York focus only on agricultural land, and the major emphasis is on preserving the prime or viable land best suited for agricultural production.

by county planning commissions. Recommendations of county planning commissions are given important consideration in the Land Use Commission's deliberations.

When the Land Use Commission changes a district boundary and moves former agricultural lands into an urban zone, urban uses of this land are determined by the county and administered by the county governments. In other words, what urban uses are permitted will be determined by the county's comprehensive plan and its zoning and subdivision ordinances.

Land in conservation districts is controlled by Hawaii's Board of Land and Natural Resources.

NEW JERSEY

Purchase of Development Easements

Only a pilot project has been approved by the state legislature to implement New Jersey's Blueprint Commission recommendations. If legislators approve all the recommendations contained in the proposed bill, there will be a provision for establishment of a State and Municipal Agricultural Open Space Agency to administer the program. The chief executive would be a member of the Governor's planning council. Administration of this program would be vested in a board of directors composed of nine persons appointed by the Governor.

Local governments through their planning commissions would have the responsibility of setting up agricultural open space areas in their master plans. After these agricultural preserves were designated, purchase of the development easements would be between the landowners and the State and Municipal Agricultural Open Space Agency.

Transfer of Development Rights Proposal

Permissive legislation allowing municipalities to establish development rights and a market for these rights is still pending. However, under the present proposal only one level of government would be involved—the local municipality. Each municipality would be responsible for designating land for agricultural and open space uses only. Each municipal-

ity would specify how many development rights would be issued and how many would be required for increased density of housing in a development.

NEW YORK

Two levels of government are involved in creation of agricultural districts. The initial application is presented to the county supervisors. They have the petition reviewed by their county planning board and an agricultural districting advisory committee. After a public hearing, the proposal is sent to the state Agricultural Resources Commission and the Department of Environmental Conservation. After review by these two organizations, the Commissioner of Environmental Conservation certifies the plan, or a modification of the plan, as eligible for a district and returns it to the county.

Final action is taken by the county supervisors after a public hearing.

OREGON

A seven-member Land Conservation and Development Commission was created to be responsible for making land use policy decisions and formulating overall statewide goals and guidelines. Comprehensive land use planning is to take place at the local level, using these goals and guidelines when preparing comprehensive plans.

Three levels of government are involved. Towns and cities prepare their own comprehensive plans; however, counties are responsible for coordinating the planning within their jurisdiction. If a majority of governmental units in a county agrees, this review function may be carried out by a council of governments. Some counties have given multi-county councils of governments (COGS) the authority for overall planning and coordination of their plans. Finally, all plans by local governments and state agencies are reviewed by the commission to insure conformance with statewide goals and guidelines.

The LCDC provides funds to towns and counties to facilitate the planning effort.

VERMONT

A nine-member Environmental Board has the overall responsibility for administering provisions of Vermont's Act 250. However, most land use decisions continue to be made by local officials, since only large developments come under the provisions of the act.

Four levels of government may be involved in the approval of a permit for a large scale development in Vermont. At the local level (township, village, or city), the permit must meet the goals and objectives of this unit of government. It must also fulfill requirements set forth by the regional (county) planning commission. As specified in the law, the permit application must be in conformance with any duly adopted local or regional plan.

Permit applications are presented at a hearing to the district commission. The state is divided into nine districts which overlap the boundaries of the state's 14 counties. Each district commission consists of three persons appointed by the governor and assisted by a full-time coordinator.

In most instances only these three levels of government are involved in a consideration of a permit application. In cases where a permit is denied, an appeal can be made to the state Environmental Board.

ADDITIONAL COMMENTS

A shortage of professional staff in Florida's Division of Planning impedes and slows work on the designation of ACSC's in that state. The number of professional staff employed by regional councils in Florida varies. Part of this variation in professional staff is related to the volume of development activity in a district.

Work of Oregon's Land Conservation and Development Commission is implemented by creation of a Department of Land Conservation and Development. The data and other assistance provided by this department facilitate decision-making and other work of the LCDC.

A reversal of this situation is found in Hawaii. The Land Use Commission has the services of only one professional planner. This situation works to the disadvantage of the Land Use Commission, especially its seven appointed members.

The usual funding situation of appointed members on state boards or commissions is that they serve without any salary. They are usually reimbursed for actual expenses or on a per diem basis, plus travel expenses. Exceptions to this are the chairman of Vermont's Environmental Board who is a full-time state employee. The two-member commission in New York is made up of full-time state employees. The Governor and his Cabinet are the Administration Commission responsible for Florida's areas of critical state concern.

Observations Regarding Land Use Legislation

The ultimate test of the effectiveness of a new law is how it is evaluated by the people who live and work with its provisions. Comments and other remarks reflecting evaluations of the legislation are reviewed on a state by state basis in this section.

FLORIDA

With passage of the Environmental Land and Water Management Act, the state began to take back some of its power delegated to local governments. As

could be expected, designation of part of the Green Swamp as an Area of Critical State Concern evoked critical remarks from many people. Several commented that the critical area designation puts a cloud on land titles and no one can change things.

In several places the Bureau of Land Planning used highways as the boundary lines for designated areas. This aroused considerable resentment on the part of local people. As a county official stated, "We resented the arbitrariness of this action."

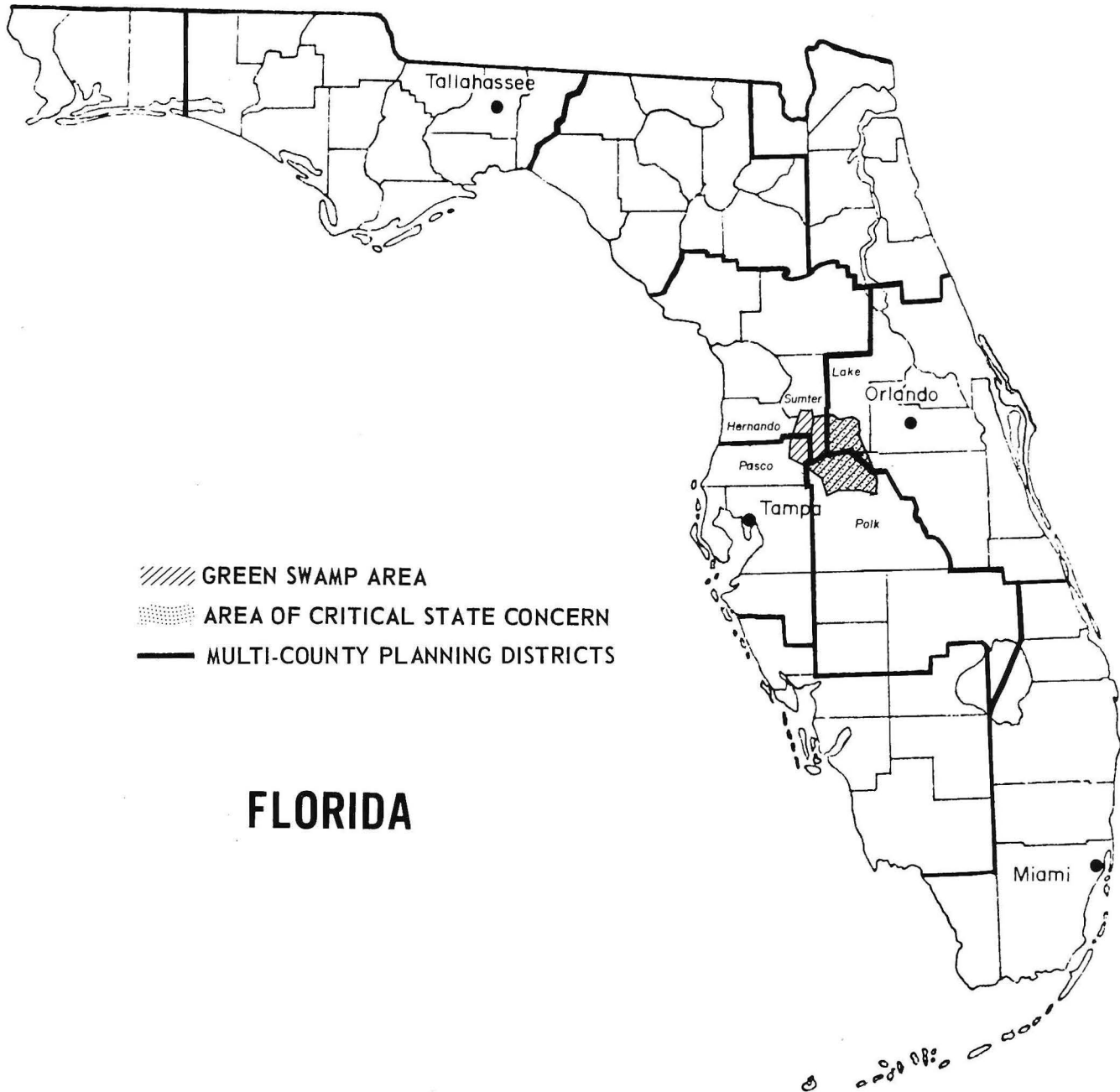


FIG. 4.—Florida map.

A former director of the Division of State Planning said determination of area boundaries has always been difficult when lines must be drawn on paper through the marginal impact zones. The boundaries have been consistently disputed by both advocates and critics (41).

Restricting the use of land in an Area of Critical State Concern goes counter to beliefs and attitudes of many people. It is usually expressed in this manner: "I should have the opportunity to develop and/or change how my land is used whenever I want to!"

How strongly this belief is shared by people in the area is evidenced by a suit filed against the Governor and Cabinet by the Green Swamp Property Owners, Inc. Their suit is still pending in the courts. Also, a number of people do not believe the Green Swamp is an important aquifer recharge area.

If this forecast comes true, designation of more ACSC's will probably be needed:

"The urbanization of Florida is a source of mounting concern, since 91 percent of the residents now live in densely populated areas . . . This generally concentrated locational pattern has brought increasing pressures on the natural ecological systems and amenities, and has created complex and difficult problems for environmental protection authorities." (43, p. 50)

Comments on Developments of Regional Impact and Regional Planning Councils

Provisions of the DRI's alerted elected officials, both city and county, to the impact that a large development would have in their sphere of influence. Representatives of local government learned more about important factors that had to be dealt with—such as water quality and various kinds of pollution. The DRI process also gave local governments time for pre-planning whether they did so or not. The requirements that must be met in a DRI proposal have provided a stimulant to planners, members of regional planning councils, and developers to look at more factors when considering a major project.

"The DRI process has eliminated a lot of projects that had no merit. Developers completing projects had to do a more competent job of land use planning. They addressed topics they hadn't considered before. DRI's have upgraded the quality of developments!" This comment came from an architect who serves on a regional planning council.

Some people oppose the idea of regional councils and multi-county planning districts. They see it as a third level of government—one further away than town and county governments. Their attitudes are expressed by this statement, "The best government is the one closest to the people." Some local officials

oppose the regional organizations because they see them as a threat to local government.

Others complain that the details and additional requirements called for in a DRI proposal were adding 10% to 15% to the cost of projects. An engineer-developer who had prepared DRI's exclaimed, "Front end costs are staggering and that slows us down! In the beginning it scared us to death! Seemed like something totally unrealistic being crammed down our throats."

There was general agreement on the part of all interviewees that data required in a DRI for all major projects had improved the quality of developments and the planning process. The socio-economic impacts as well as the impact on natural resources are spelled out. An officer of a state association exclaimed, "It (DRI) is the biggest thing to happen to our rural counties. *They will have to plan!*"

Lack of a statewide comprehensive plan handicaps the work of Regional Planning Councils. The Division of State Planning is preparing such a plan which will be completed in another year or two.

COMMENTS CONCERNING HAWAII'S LAND USE LAW

Hawaiians are very concerned about population growth and value preservation of agricultural lands.⁶ In light of these attitudes, how is the work of the Land Use Commission viewed by the people?

A state planner commented that county planning commission recommendations were given a lot of weight in land use decisions. He felt that the land use law did preserve agricultural lands to a large extent. "We would have seen a different kind of urban development if the law had not been passed," he said. He believes that things would be worse without it.

A professional planner pointed out a major shortcoming, "The general plan of the state of Hawaii was received by the legislature years ago and then put on a shelf. A result is that the Land Use Commission makes decisions on an ad hoc basis without the benefit of the state land use plan and policy."

Kim Lowry and Michael McElroy examined the Land Use Commission's decisions from 1962 to 1975. One of their conclusions is that the LUC's decisions have been ad hoc and based on a particular land unit's suitability for urban use rather than the proper use of that unit in a larger regional framework.

They make this statement after they look at decisions in Central Oahu. "The pattern and pace of

⁶For more on attitudes of Hawaiians concerning land use and population, see [46], especially Chapter 6, The Views of Hawaii's People: Results of a Survey.

NEW JERSEY

Purchase of Development Easements

The major thrust of the legislation proposed by the Blueprint Commission would involve the state purchasing the development easements (rights) on approximately 1 million acres of land. According to present thinking, this would mean retirement of these rights for perpetuity. If legislation encompassing this policy is enacted, it will be the first major attempt by a state government to preserve open space and commercial agriculture via purchase of development easements (rights).

The purchase of development rights on about 1 million acres of farmland should preserve a critical mass of land for farm purposes. However, removing development easements from this much land would increase the pressure on other properties.

The New Jersey Farm Bureau and Grange plus the State Agriculture Convention have endorsed the Blueprint Commission's recommendations.

The unanswered question is, "Should land be saved for agriculture in New Jersey?" As one member of a state agency said, "I'm not convinced of the idea of saving farmland just so New Jersey can produce fresh vegetables. Let them sell land for what it is worth!"

However, there is considerable sentiment in New Jersey for a better environment. Voters approved multi-million dollar bond issues in 1961, 1971, and 1974 to purchase land for recreation areas under what is known as the Green Acres Program. There is considerable feeling among environmentalists and others for the state to acquire land and keep it for open space and outdoor recreation uses.

If commercial agriculture is to survive in the Garden State, some method of compensating farmers must soon be devised. Purchase of development easements is one such proposal. The transfer of development rights is another proposal being considered in New Jersey.

A member of a state agency said they had been meeting and talking about "How to Save Agricultural Land" for years. If present trends continue, this will be a moot question in 10 or 12 years, for there will be very little agricultural land left to save.

Transfer of Development Rights

The intent of the transfer of development rights (TDR) proposal is to provide a mechanism whereby local governments can create a supply and a demand for development rights. Implementation of this legislative policy would be left up to local government. Local governments would set the stage for preservation of open space. However, the negotiations, *i.e.*, buying and selling of development rights,

urban development in Central Oahu do suggest that the role of the State Land Use Commission in growth management has largely been one of exercising some influence as a brake on the *pace* of urban development, but much less over the ultimate decisions about *where* growth is to occur, or *how much* is to occur." (22, p. 16)

They also found that in the last 4 years (of their study) the Commission has been more consistent in applying a policy of preventing scattered subdivisions while seeing that there are sufficient vacant lands to accommodate urban growth. (22, p. 17)

A county planning director and several others indicated dissatisfaction with the work of the LUC. They see the Land Use Commission doing some things a county planning commission could do.

An editor pointed out that the Land Use Commission becomes the "planners" in the absence of any overall plan and policy. The commission makes decisions on an ad hoc basis because there is no policy to provide guidelines.

Most of the comments reflected dissatisfaction with how decisions are made by the Land Use Commission. Not a single person interviewed disagreed with the need for land use controls and putting land in one of four use categories. This point was also made by Shelley M. Mark, former director of the Hawaii Department of Planning and Economic Development: "Land use planning and control is considered one of the most effective means of guiding the State's long-range social and economic development and destiny." (24, p. 189)

Hawaii's legislators are aware of these dissatisfactions, and recently the state legislature passed State Planning Policy Act 189. This act directs the Department of Planning and Economic Development to prepare a comprehensive plan for the state. The department is working on a comprehensive plan which will provide for policy and planning coordination between the state and the four counties. When this plan is completed, conflict between counties and the Land Use Commission should be reduced. This statewide plan and policies will provide guidance for the Land Use Commission when making decisions on land use matters.

The act stipulates that all state agencies and counties *shall comply* with the plan. The state plan is scheduled for completion in 1977, and 2 years later all county plans are to be amended to conform to the state plan.

Dr. Mark concludes, "... Hawaii appears to be headed toward stricter, and hopefully, yet more intelligently planned, land use controls." (24, p. 195)

would be left up to free enterprise and the marketplace.

This policy appeals to some people because it utilizes the free enterprise system. The market determines the price of certificates.

There is little cost to local government except for the planning and zoning that is necessary to create the supply and demand for development rights. A factor yet to be resolved is how to tax the transfer of development rights certificates.

The TDR proposal depends upon comprehensive plans plus a planning staff and local government officials who have the respect and the confidence of the general public. One could assume that only a small percentage of the nation's municipalities and counties have reached this stage of sophistication in their planning and control of developments. Also, one presumes development pressures would have to be very intense for a unit of government to initiate this policy and procedure.

Professor Jerome G. Rose of Rutgers University believes success or failure of this policy is dependent upon the skill of planners and their allocation of land use. He also points out that there must be a long

term commitment to the plan on the part of government officials. (36, p. 355)

With permissive legislation, the decision to adopt this policy is left up to each township and city. Several observers have wondered if enough farmland would be preserved to maintain an agricultural business complex. The presence of businesses that provide supplies and services for farmers is very important if agriculture is to continue in New Jersey.

Present trends indicate continued heavy demands on New Jersey's land resources. The less intensive uses of land, such as farming, will continue to give way to the demand for more intensive uses, such as housing developments and shopping centers.

NEW YORK'S AGRICULTURAL DISTRICTS

Almost 4 million acres of New York's farmland are in the 294 agricultural districts organized since passage of the legislation. Many farmers were quick to see the advantages provided by provisions of this new law.

Districts not only provide a measure of protection for investment in farm enterprises but also for businesses that make up the agricultural business com-



FIG. 5.—In New York, agricultural districts reduce the likelihood of this kind of development occurring on prime farmland.

Photo courtesy of USDA—Soil Conservation Service

plex in the area. Acceptance of a district by the county board of supervisors provides public recognition that agriculture is an important activity in the county. People in the area know this acreage is dedicated to agriculture for at least 8 years.

One New York farmer commented, "Agricultural districts influence legal actions favorable for farmers. People know you plan to stay in farming. When you sign your name, you make a commitment to farming."

Professor Howard E. Conklin of Cornell University states that basically the district creates conditions that increase the odds that a farmer can maintain his agricultural enterprise. This in turn reduces the opportunities to sell land for other uses.

Another farmer states: "The district provides protection for the farmer, it gives him more freedom. It protects against sewer line expenses so you won't be assessed out of business. It also discourages encroachment by speculators."

Other interviewees pointed out what they considered to be disadvantages of this legislation. Here are some representative responses:

"Agricultural district law can't stop residential development. The law should be stronger!"

"A disadvantage of the law is that it has very few teeth in it."

"Districts are a start, a stepping stone, but not enough to save agricultural land."

"Districts are just a 'stop gap' measure!"

"Agricultural districts are an interim measure—they will buy some time."

Professors Howard E. Conklin and William R. Bryant of Cornell University have studied the progress of agricultural districts. They make this statement:

"... New York's agricultural district program has been highly effective to date in involving large numbers of people in the processes it has set in motion in all major agricultural areas of the state except those nearest to New York City. . . . In areas of imminent wall-to-wall urban development, however, it appears that some type of action other than agricultural districts will be needed if agriculture is to be preserved." (8, pp. 611-612)

How good or effective are agricultural districts? Many of the districts have been in operation for only 2 or 3 years.

Within a few years, a study should be made to evaluate how effective districts are in achieving the purpose of the Agricultural District Act. The variety of responses indicate more provisions are needed if agricultural uses of land are not to be superseded by other land uses.

OBSERVATIONS CONCERNING OREGON'S LAND USE ACT

Passage of Oregon's Land Use Act has increased planning efforts in the state. Through a program of grants and other funds, the Land Conservation and Development Commission has helped many smaller communities facilitate their planning efforts. Also, the goals and guidelines developed by the LCDC provide a common focus and direction for all planning.

Several local officials exclaimed that towns and cities needed more time to develop their comprehensive plans. Some officials and planners felt frustrated in their attempts to comply with the time schedules and guidelines set forth by LCDC. The commission has been granting extensions to those requesting more time.

A farmer very knowledgeable about LCDC and provisions of the Land Use Act said, "It will have more impact in the future—it's still in the shake-down phase. Local government is responding slowly."

This new commission is viewed by some as a threat to local government. Some local officials are apprehensive about how much authority the LCDC has and what are the limits of this new agency. The land use act has increased the concern of people who feel threatened by its provisions.

The Land Use Act has encountered organized opposition although there is a widespread feeling in Oregon that there must be some kind of planning. Petitions for its repeal were circulated early in 1976. However, all of the state's major daily newspapers editorially opposed the repeal effort.

In the general election of 1976, Oregonians reaffirmed their belief that planning is important. Fifty-seven percent voted against the attempt to repeal the Land Use Act.

With some conflict and differences of opinions, Oregon's cities and counties are moving ahead with comprehensive plans that incorporate statewide goals. Through provisions of the Land Use Act and other legislation, Oregonians are trying to maintain the attractiveness of their natural resources and enhance the quality of life.

COMMENTS ABOUT VERMONT'S ACT 250

A number of persons remarked enthusiastically that the law had improved the quality of developments and helped the environment. The resources of state agencies can be utilized in the procedures without a direct cost to municipalities.

A member of the state agency stated, "It provides a sensible method of managing growth. The public has a better idea of the cost of development and its consequences because of the data that must be presented in every application. The physical and social

costs are identified in the application for a permit and at the public hearing.”

Others pointed out that Act 250 provides for an area review and judgments on projects that have area-wide implications. The act has given considerable impetus to planning efforts in Vermont.

However, not all Vermonters are happy with the provisions of this act. The most frequently voiced complaints concern the cost of preliminary planning, the need to hire engineers, and the “red tape” required to get a permit. Several persons pointed out that the act makes development too difficult or expensive for persons without many resources. Others think Act 250 has tended to identify Vermont as *anti-development* because standards have been established and more costs are placed on developers rather than being assumed by public agencies.

During the economic slump, some contractors blamed Act 250 for what had happened without taking into account the general economic slowdown across the nation. Other people did not understand or attempt to separate Act 250's requirements from other regulations.

What clouds any evaluation of Act 250 is that some people like Vermont just as it is, while others are for developments and change which they believe will improve the state's socio-economic situation. Many people consider the act as a device to maintain the status quo, so it provides a focal point for persons with different views concerning Vermont's future.

If present trends continue, Vermont will be the destination of more migrants from metropolitan areas. As the population mix of long-time residents and newcomers continues, so too will the tensions. A clash of attitudes and values is to be expected.

OBSERVATIONS CONCERNING FARMERS' ATTITUDES ON LAND USE POLICIES

Responses from farmers regarding their own attitudes and their perceptions of other farmers' views range from enthusiastic support for land use legislation to very vocal opposition to this legislation. State organizations representing farmers varied in their support for or opposition to the legislation and implementation of the policies.

In some cases where agriculturally oriented organizations do address land use legislation, their influence is blunted by differences within the membership. Also, one finds these organizations on opposite sides of some issues.

This remark by New Jersey's Secretary of Agriculture Phillip Alampi reflects the diversity of farmers' attitudes: “Our greatest opposition comes from some of the farmers. They just don't want the state

to get involved in their business. And yet there are a great many farmers who endorse the plan completely and who are solidly behind it.” (1, p. 196)

In one state, farmers were in the forefront in initiating action on the land use legislation and added their support to its passage. Here again farmers did not present a united front. Some farmers, usually those living near cities, often opposed the legislation. Other farmers and rural residents in the thinly populated section of the state did not feel very strongly about the need for a land use bill.

In some cases, farmers believe provisions of the legislation will help them stay in business longer, and will influence legal actions in a favorable way for farmers. Many of the larger or more prosperous farmers seem to be for land use policies and controls. They expect to stay in farming and the legislation reduces some of the uncertainties associated with long term commitments. These farmers support land use legislation that gives them some protection from the threats of suburbanization and tax increases. In some instances farmers are supported by nonfarm residents interested in maintaining open space.

A professor commented that farmers really like to be left alone, but they know something is going to be done. So they say, “Let's go with this kind of plan.”

Many farmers are aware of the decline in political power of rural people. The representation from rural areas has been more than decimated by reapportionment and implementation of the *one person-one vote* mandate. This shift in political power has occurred across the nation.

An agency person put into words a view expressed in several states: “Farmers want it both ways—they want protection, but they don't want controls that would keep them from selling or doing other things with their land.”

Among the farmers' ranks are those who wish to retire from farming and others who wish to speculate on resale of their land for more intensive uses. Some farmers are confident that if they wait a while a developer will come along and buy their land.

A thought nurtured by some farmers in states as far apart as Vermont and Oregon is that when they are ready to retire they can sell the farm for a housing development and retire “well off”—a pleasant thought to be sure, but one that will not be realized by many farmers. This thought entertained by some farmers explains part of the opposition land use policies encounter from farmers. These people see the regulations as reducing their likelihood of an affluent retirement.

CHANGES IN LINKAGE OF SOCIAL SYSTEMS

The implications of new legislation in regards to establishing new social systems and new linkage between the new and existing systems plus new linkage between old systems are often overlooked.

This author advances the proposition that linkages between systems facilitate planning, and improve the content of comprehensive plans and the management of natural resources. Several examples are cited.

Florida's Environmental Land and Water Management Act provides for an organizational arrangement whereby towns and counties can engage in cooperative efforts within a district. It provides for a regional planning council composed largely of elected officials from towns and counties in each district. The council enables more towns and counties to work together on common problems. These units of government can address issues that cross their legal boundaries.

The mayor of a small town said, "I think it is a good tool for getting people together. At least you talk with other people in adjoining counties that have common problems. A regional planning council provides a means whereby we can talk and decide on better solutions for problems. It benefits counties and towns in the districts."

Provisions of this act have brought regional planners into a working relationship with local governments—especially the governments of the very rural counties and small towns. Usually small towns and the very rural counties in Florida do not have access to planners and planning services. Today planning assistance and other services for small units of government are available through the planning staff of regional planning councils.

A county commissioner, who was chairman of a regional planning council, pointed out that this organization makes assistance of professional planners available to sparsely populated rural counties. The act has increased the amount of planning going on across the state.

In New York the agricultural districts legislation has provided for the creation of an agricultural districting committee in every county where an agricultural district was formed. The commission is composed of farmers and agri-businessmen appointed by the county supervisors.

The county planning commission and the committee must review the proposals for creation of an agricultural district. This process provides an opportunity for planners and those interested in agriculture to sit at the same table and make decisions about the future of the county. The formation of agricul-



FIG. 6.—Land use policies assist local people in coping with changing land uses.

Photo courtesy of USDA—Soil Conservation Service

tural districts has brought farmers and planners together. During the deliberations, the people involved gain a better understanding of planning and agriculture.

Another feature of this legislation with great value for rural residents is the linkage of farmers and agricultural districts with the Department of Environmental Conservation.

If any state agency wants to take land lying within an agricultural district, it must notify the Commissioner of the Department of Environmental Conservation. The Commissioner can require the agency to explore all possible alternatives before acquiring land within a district. Local residents have the expertise and resources of a state agency to help them when dealing with other state agencies. This linkage of local people or rural landowners with a state agency is another benefit from the provisions of this bill.

One provision of Oregon's Land Use Act mandates active citizen involvement in decision making throughout the planning process. Each county and city had to create a new system entitled, "Committee for Citizen Involvement." The function of this committee is to insure participation of lay people in the planning process.

The act also created the Department of Land Conservation and Development to assist in carrying out the intent of the Land Use Act.

Vermont's Land Use Planning Act 250 gives townships access to a state agency. Townships can call on a state agency for assistance while working with a developer. This provision provides for the linkage of townships with the expertise of a state agency. This provision also affords the same kind of assistance to municipal and regional planning com-

missions. This linkage to resources of state agencies has added to the quality of planning efforts in Vermont.

LAND USE LEGISLATION AND CONFLICT

Conflict is the constant companion of land use legislation and implementation of the policies contained therein. This is an ongoing process and as pointed out by J. Paxton Marshall:

"As efforts are made to set aside land for production and consumption purposes, we will witness an outpouring of views which reflect the attitudes passed on from a simpler era as well as those created by our changing life styles. Conflict will abound. . . This will be accompanied by a widening and deepening of public rights in land as the community reasserts its public rights in regulating and controlling private rights in land in accordance with the rule of reasonableness and evolving American tradition." (25, p. 112)

When new norms are emerging, their coming in to being is accompanied by conflict between sectors of society having different attitudes and values. Conflict and tension can be expected as new modes of behavior are defined and legitimized, and attitudes and concepts of what is *right* are modified. Also, some people benefit while others lose advantages in this process. New legislation brings about shifts in power and control as well. This action brings out opposition from those systems whose power has been diminished.

As Godwin and Shepard point out, ". . . there is a need to recognize that there will be losses and losers as well as gains and beneficiaries in state land use policy formulation." (16, p. 2) Property owners who incur losses or are limited in what they can do with their land protest vigorously when such land use legislation is proposed and/or the policies are implemented. Other protesters see this as an encroachment upon a basic right, *i.e.*, the belief that an individual can do whatever he or she wants to do with their land.

In five of the states studied, conflict between individuals and organizations concerning passage of the legislation and implementation of the policies was quite evident. In Oregon, an attempt to repeal the Land Use Act at a general election in 1976 was defeated. Only New York's agricultural districts land use policy did not engender organized opposition or conflict.

The reasons for conflict and the nature of the participants in the conflict process seem to vary. At times, conservationists vs. developers' conflicts will predominate. At other junctures, those for the status quo or keeping things as they are find themselves in opposition to persons who are for change. In Ver-

mont, the cleavage seems to be between environmentalists and those for development. In other places, those opposing the land use policies consider their enforcement an affront to their values and beliefs concerning private ownership of land and local control of decisions concerning land use changes. Some of these people believe strongly that the best government is the one closest to the people, *i.e.*, local control.

Some single purpose systems (voluntary organizations) have been organized locally to oppose land use policies, such as a local property owners association. There are other single purpose systems—usually "anti" organizations—with a statewide membership.

Conservation and environmentally oriented organizations are much in evidence when land use legislation is being considered. They clash with organizations representing economic interests, plus those favoring development who want to use natural resources.

The continuing debate and struggle on how land will be used are not confined to the level of local government. Representatives of special interest organizations, businesses, and industry descend on legislators in statehouses and in the halls of Congress. Conservation and environmentally oriented organizations with national offices in Washington, D. C., and their counterparts in offices near statehouses alert and rally support from local chapters. The same can be said for a variety of business, labor, and industrial interests. They also use the mass media, letters, articles and annual reports to stockholders to communicate their points of view to people.

Godwin and Shepard point out that regulatory politics or the politics of pluralism is one dominated by organized interest groups which form coalitions for or against the regulations. (16, p. 13)

Conflict also develops between those who want to make short-run use of land, *i.e.*, something that is profitable in the short-run, and persons who are thinking about a long-range use of this resource. Persons with the latter view are frequently represented by the various environmental and conservation-oriented organizations.

It has been pointed out in a number of places that the short-run economic decisions which appear in the marketplace have an adverse effect on use of land resources. Use of land as determined by long-range planning often blocks short-range use of land, *i.e.*, immediate profit is blocked. As would be expected, this causes conflict and dissension.

Clyde W. Forrest, commenting on the short-run view, writes:

"... land is basically viewed as an exclusive private market commodity—one to be used, sold, or developed for its highest dollar value. The

phrase 'highest and best use' is too often heard in land use regulation and land use planning circles. 'Highest and best use' is a legitimate consideration of land use planning, but it is hardly determinative of the public interest." (15, p. 341)

Unfortunately, new laws are often enacted without the general public being aware of their passage. Complaints and other reactions arise when provisions of the new law actually affect land use decisions. Many people seem to be most sensitive to land use legislation when the action affects their opportunities to benefit or lose in a property transaction.

GENERAL OBSERVATIONS

Concern over the number of people and the balance between population, natural resources, and quality of life was evident in several states. In Hawaii, the majority of the people responding to a recent survey agreed with this statement: "Continued population growth, along with an expanding economy, will reduce the quality of life in Hawaii." A slight majority also agreed with this statement, "Any measure that is constitutional should be used to keep new residents from coming into this state." (46, p. 21)

These responses indicate attitudes favoring a no-growth or a slow-growth policy for the state.

In Oregon, former Governor Tom McCall's statements reflected the attitudes of many Oregonians. He said in effect, "Come and visit but don't move to Oregon!" Similar attitudes about population growth were expressed by this message on a popular bumper sticker, "Don't Californicate Oregon."

As Raymond Vlasin has pointed out:

"... there is a sizeable if not growing national and state concern for the expanding urban conglomerates and for ways of upgrading the quality of life in urban areas and meeting expanding energy needs. Because of these concerns, various communities and states are raising questions about whether they want to have added population growth, and if so, how. Some are taking specific actions to retard growth." (42, p. 369)

These attitudes may forecast that the day a person can move and live wherever one wants to in the United States is coming to an end.

One result of the legislation in Florida and Vermont is to place more of the project's cost on those

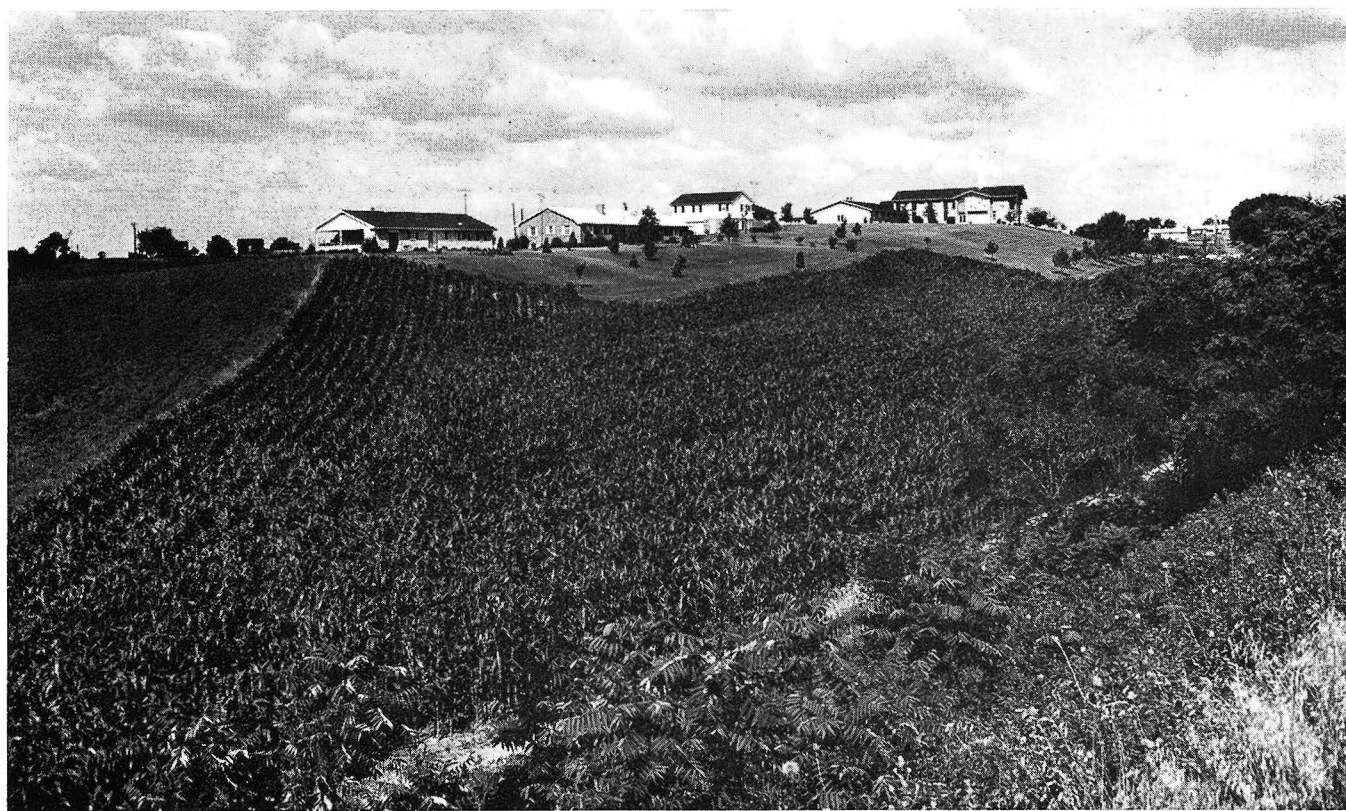


FIG. 7.—Houses and agriculture meet at the urban fringe. Should the open space be reserved for farm uses?

Photo courtesy of USDA—Soil Conservation Service

responsible for the development. The permit requirements alert local governments and citizens to the overall cost of a development. In the past, much of the cost was borne by local government and/or by indirect cost to people in the community by their payment for added services and facilities through taxes.

Conclusions

The values and attitudes of enough people are changing and bringing about enactment of legislation which modifies existing laws and establishes new ones regarding use of the land and other natural resources. New systems are brought into being—new structures and functions—and along with these new linkages between systems.

More new laws and new systems (institutional structures) are in the offing, especially as the energy crisis communicates to all that some natural resources can be exhausted.

These changes reflect a shift in the thinking of more people about long-range goals and objectives concerning use of land and other natural resources.

States are taking back some of the power they had delegated to counties and municipalities concerning property rights. In Vermont and Florida this is being done via a district or regional type organization, plus designation of areas of critical state concern in Florida. In these two states the emphasis is on exerting state or district control over large developments. Decisions on minor changes of land use are still made by units of local government. In Oregon and Hawaii, participation in land use planning and decisions is accomplished through a state agency or a commission. The state is using its authority to bring about goal setting and planning by local governments.

Following case studies of nine states, this statement was made about objectives: "The purposes and objectives of most state programs emphasize protection of natural resources, interposing state or areawide interests in matters which are clearly or greater than local concern, and balancing of economic development and environmental considerations." (55, p. 36)

Several states have decided they can no longer leave planning and land use controls entirely up to local governments—county or municipal. Legislation in Florida, Hawaii, and Oregon sets certain time limits within which local governments shall complete land use plans and formulate policies.

Oregon provides an example of where a state commission formulated a set of state goals to be used as a guide for county and municipal planning commissions. A deadline was also set for completion of these plans by local government.

As H. A. Henderson points out, many project costs were not taken into account when justifying projects years ago, but now these costs must be considered. (17, pp. 157-159) Costs that once were borne by the public are now being shifted to the person or company responsible for the change in land use.

Florida's Land and Water Management Act has been followed by the Local Government Comprehensive Planning Act passed in 1975. This act requires every Florida city and county to prepare and adopt a comprehensive plan by 1979.

Somewhat similar action is taking place in Hawaii. State Planning Policy Act 189 directs the Department of Planning and Economic Development to prepare a comprehensive plan for the state. The act stipulates that all counties shall comply with the plan. All county plans are to be amended to conform with the state plan 2 years after its completion.

Attitudes and values are changing, and along with this goes a change in the norms. These social changes are reflected in court decisions, enactment of new laws, and revisions of present laws.

The state gives, and the state can take away. As the norms change, the state changes the rules (laws) regarding property rights and land use.

As pointed out by Mark:

"... since it is axiomatic that if a State can *delegate* its police powers to regulate private land use in the public interest, it can also *exercise* it. The serious interest of a growing number of state and national officials in the Hawaiian experience, along with the expected passage of a National Land Use Policy Act, suggests the sort of change in public climate which is necessary for any such exercise of power to take place." (24, p. 193; 19, p. 15; 16, p. 13)

Changes in the norms require new laws or new institutional structures. Property rights are being redefined. "Many people are pressuring for a new land ethic which would emphasize less the rights of land ownership and more the responsibilities of land ownership. There is pressure to give greater expression to public interests in the use of land. And there is the counterpressure resisting such attempts." (3)

There seems to be a shift in thinking concerning property rights. More people are thinking of title to land as a bundle of rights—property rights—rather than ownership of the land, *i.e.*, its physical properties. Along with this view is the understanding that one or more of these rights can be removed from the bundle while the owner retains title to the property. In some

parts of the nation, people are quite knowledgeable about mineral rights and water rights.

Development rights or development easements are being discussed more and more as one of the rights that may be removed from property ownership. The development rights may be sold as the owner continues to use the land for agricultural purposes.

The transfer of development rights or easements is central in both land use policies being considered in New Jersey.

Another statement points up the need for changes. "Many precedents are anachronistic now that land is coming to be regarded as a basic natural resource to be protected and conserved, and urban development is seen as a process needing careful public guidance and control." (34, p. 24)

Along with the adequacy of social systems and/or the infrastructure of schools, local government, health facilities, etc., the capacity of natural resources to accommodate a greater number of people is being given greater consideration. Vlasin comments that his colleagues in environmental sciences have found that environmental capacities to support human uses are regionally specific and that substate regions can and must be treated differently. "... their experiences and mine have shown that adverse environmental effects of an economic development project or public service project can be minimized if environmental considerations are an integral part of the location and design decisions for the project." (42, p. 378)

The time is close at hand in the United States when land and other natural resources will be incorporated as a vital part of plans and decisions that influence the number of people to be accommodated in an area. The growing number of regulations on disposal of waste from industrial and business concerns as well as housing developments reflect this concern.

"We need a land ethic that regards land as a resource which, improperly used, can have the same ill effects as the pollution of air and water, and which therefore warrants similar protection." (34, p. 7)

Increasing Power of Non-landowners

A significant trend in decision making regarding the use of rural land is occurring across the nation. Persons other than property owners are demanding and having more of a say in how natural resources—especially land resources—are used. This is being accomplished through the legislative process in state capitals and the Congress. Their views are being expressed in various kinds of legislation.

"Perhaps the greatest trend in government control of land is the decline in rights of fee simple ownership arising from demands of consumers for a voice in management of resources



FIG. 8.—Some soils should only be used for agricultural purposes. This house was built on peat and muck soils 2 years before this picture was taken.

Photo courtesy of USDA—Soil Conservation Service

owned by others. The idea that each landowner is his own 'king' has been rapidly modified as rights of property are redefined." (17, p. 151)

Rural residents, including farmers, do not have as much power in statehouses or halls of Congress when compared with urban residents. The exception to this statement may be some of the less populous states in the Plains Region.

Power alignments in state legislative bodies were changed by reapportionment. The ruling that each person's vote must have equal representation shifted political power in statehouses as well as the nation's capitol. Urban and suburban populations gained in power through this reorganization procedure. Representation of non-landowners' interests and concerns about use of rural land and open space have received more attention since reapportionment.

More and more decisions about how open space will be used will be determined by urban and suburban residents. Wherever there is intense pressure to convert agricultural lands to other uses, the urban population greatly outnumbers the rural. Hence, the political *clout* will be with the urban sector.

The Need for a Continuing Educational Program and Research

In the future, comprehensive land use policies and new organizational forms will be a fact of life in more states. To be successful, any land use policy must be understood and accepted by the people. A continuous educational program will be needed to explain the rationale and need for these policies and the tools to enforce provisions of the policy.

"The land resource management method to use will have to be decided at the local level by citizens informed about the issues and choices of proposed land use policies to retain prime land. This decision-making process requires an open and broad involvement of people at the local level." (14, p. 224)

Not that any educational program is going to reduce all the conflict surrounding land use legislation, but one must take into account there is a time lag between creation of a new system and its policies and a change in people's attitudes and values leading to their acceptance of the new regulations. In a discussion of rural planning, William R. Lassey points to the importance of a constant and continuing educational process to increase citizens' basic understanding of issues and the priorities involved. (19, p. 233)

Extensive educational programs on land use policies are being conducted by the Extension Services of many land grant universities.

With the balance of political power in the hands of the urban population, the need for a well-informed, knowledgeable urban population is more important than ever before in determining what land use policies and controls will be enacted and enforced. There is also an increased need for a better understanding on the part of planners concerning the relationship of agriculture to the overall structure of the community and society.

These trends in land use legislation provide additional opportunities for universities to lend their knowledge and talents to resolving the problems accompanying these changes in norms, attitudes, and values. It is an area of change where the expertise of several academic disciplines could be used in research programs. These developments provide a fertile field for research by sociologists, agricultural economists, and political scientists, as well as the various disciplines that address the broad area of natural resources.

No doubt conflict, tension, and some confusion about land use policies and regulations will be a part of the national scene for years. However, what are the positive and the negative aspects of these policies? What serendipitous side effects do these policies bring about? Hopefully more scientists will delve into this exciting ferment of social change!

New institutional arrangements must be evolved if a satisfactory balance between people and land is to be achieved. The relationship between agricultural and open space use of land and the competing, more intensive uses of land is a knotty problem to resolve. It is an issue of major importance across the nation! Various methods for making better use of their land resources have been instituted by the states studied.

Hopefully those interested in best use of land—farmers, elected officials, professors, developers, or environmentalists—will address this issue in other states.

THE OHIO SITUATION

Ohio is one of the most densely populated states in the nation with an average of 260 persons per square mile. It ranks sixth among the 50 states in population density. Side by side with this dense population is a very large agricultural enterprise of major importance to the state's economy.

Best use of land is one of the major problems confronting local government and community leaders. Ohio's citizens are also aware of problems associated with land use and quality of life.

Ohio does not have a state land use policy. However, every county has a planning commission—either county or regional—and there are multi-county regional planning commissions as well. Several counties do not have a planning staff.

Subdivision regulations and rural zoning are two kinds of controls used in guiding changes in land use. County commissioners in 76 of Ohio's 88 counties have adopted subdivision regulations. By the close of 1977 more than half (675) of Ohio's 1,319 townships had approved rural zoning. The administration of rural zoning is on a county basis in 13 of the 68 counties that have zoning in one or more townships. Approximately seven of every ten rural Ohioans live in zoned areas.

Wise use of land resources is extremely important in maximizing opportunities for Ohio's future development. The Ohio legislature is sensitive to this need and the growing concerns about quality of the environment.

House Bill 63 passed by the Ohio General Assembly in 1975 created a joint legislative Land Use Review Committee to review land use policies, programs, and regulations. This committee's final report entitled, "A Guide for Land Use Legislation," was published in June 1977.

The developments cited here and in the Introduction underscore the interest in future use of Ohio's land. Enabling legislation will be introduced in the Ohio General Assembly in 1978 to incorporate many of the provisions contained in the Land Use Review Committee's report. One section of this report provides details for creation of agricultural districts patterned along the lines of New York's legislation.

Ohioans can expect a state land use policy to be enacted into law by the General Assembly within the next year or 18 months. It is hoped that the experiences of six states reported in this bulletin will be of help to Ohio's citizens in designing and implementing this legislation.

Local planning efforts will be facilitated by state goals and guidelines. These provisions will also enhance the comparability of one county's plan with adjoining counties.

Based on this analysis, it seems very important that an educational program be conducted to explain the provisions of this legislation. Those responsible for the program should make extensive use of the mass media, popular type bulletins, and short "Facts About Ohio's Land Use Policy" leaflets. Such a program would increase understanding and reduce confusion as to the intent of the legislation.

Not only should relationships between local,

county, and state offices be spelled out, but provisions should be made whereby local governments can call on the resources of state agencies—personnel and funds—for assistance in planning and implementing a state land use policy. If a regional or district organizational structure is created, it should make planning assistance available to counties.

The new or modified institutional structure should provide for a sharing in decision making by urban and rural people and local and state governments in carrying out provisions of the legislation. Linkage of a new social system with existing systems requires careful definition of responsibilities.

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Center Headquarters, Wooster, Wayne County: 1953 acres

Eastern Ohio Resource Development Center, Caldwell, Noble County: 2053 acres

Green Springs Crops Research Unit, Green Springs, Sandusky County: 26 acres

Jackson Branch, Jackson, Jackson County: 502 acres

Mahoning County Farm, Canfield: 275 acres

Muck Crops Branch, Willard, Huron County: 15 acres

North Appalachian Experimental Watershed, Coshocton, Coshocton County: 1047 acres (Cooperative with Agricultural Research Service, U. S. Dept. of Agriculture)

Northwestern Branch, Hoytville, Wood County: 247 acres

Pomerene Forest Laboratory, Coshocton County: 227 acres

Southern Branch, Ripley, Brown County: 275 acres

Western Branch, South Charleston, Clark County: 428 acres